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Mr. Darin Darby
Counsel for the Eagle Pass Independent School District
Escamilla & Poneck, LLP
700 North St. Mary's Street, Suite 850
San Antonio, Texas 78205

OR2015-12484

Dear Mr. Darby:

You ask whether certain information is subject to required public disclosure under the Public Information Act (the "Act"), chapter 552 of the Government Code. Your request was assigned ID# 568279.

The Eagle Pass Independent School District (the "district"), which you represent, received a request for the personnel file and internal affairs investigations pertaining to a named individual.¹ You inform us the district will redact certain information pursuant to section 552.117(a)(2) of the Government Code in accordance with Open Records Decision No. 670 (2001).² You state the district redacted some information pursuant to sections 552.130(c), 552.136(c), and 552.147(b) of the Government Code.³ You claim the

¹You state the district sought and received clarification of the information requested. *See* Gov't Code § 552.222 (providing that if request for information is unclear, governmental body may ask requestor to clarify request); *see also* *City of Dallas v. Abbott*, 304 S.W.3d 380, 387 (Tex. 2010) (holding that when a governmental entity, acting in good faith, requests clarification or narrowing of an unclear or over-broad request for public information, the ten-day period to request an attorney general ruling is measured from the date the request is clarified or narrowed).

²Open Records Decision No. 670 is a previous determination to all governmental bodies authorizing them to withhold the current and former home addresses and telephone numbers, personal cellular telephone and pager numbers, social security numbers, and family member information of peace officers under section 552.117(a)(2) of the Government Code without the necessity of requesting an attorney general decision. ORD 670 at 6.

³Section 552.130(c) of the Government Code allows a governmental body to redact the information described in subsection 552.130(a) without the necessity of seeking a decision from the attorney general. *See* Gov't Code § 552.130(c). If a governmental body redacts such information, it must notify the requestor in

submitted information is excepted from disclosure under sections 552.101 and 552.102 of the Government Code. We have considered the exceptions you claim and reviewed the information you have submitted.

Section 552.101 of the Government Code excepts from disclosure “information considered to be confidential by law, either constitutional, statutory, or by judicial decision.” Gov’t Code § 552.101. Section 552.101 of the Government Code encompasses section 1324a of title 8 of the United States Code. Section 1324a governs I-9 forms and their related documents. This section provides an I-9 form and “any information contained in or appended to such form, may not be used for purposes other than for enforcement of this chapter” and for enforcement of other federal statutes governing crime and criminal investigations. *See* 8 U.S.C. § 1324a(b)(5); *see also* 8 C.F.R. § 274a.2(b)(4). Release of the submitted I-9 form in this instance would be “for purposes other than enforcement” of the referenced federal statutes. Accordingly, we conclude the submitted I-9 form is confidential in its entirety pursuant to section 1324a of title 8 of the United States Code; the district must withhold this information under section 552.101 of the Government Code in conjunction with federal law.

Section 552.102(b) of the Government Code excepts from public disclosure “a transcript from an institution of higher education maintained in the personnel file of a professional public school employee[.]” Gov’t Code § 552.102(b). Section 552.102(b) of the Government Code is applicable only to a transcript of a professional public school employee. Thus, section 552.102(b) is not applicable to the transcript of a district police officer. Accordingly, the district may not withhold the information at issue under section 552.102(b) of the Government Code.

Section 552.102(a) of the Government Code excepts from disclosure “information in a personnel file, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.” *Id.* § 552.102(a). The Texas Supreme Court held section 552.102(a) excepts from disclosure the dates of birth of state employees in the payroll database of the Texas Comptroller of Public Accounts. *Tex. Comptroller of Pub. Accounts v. Attorney Gen. of Tex.*, 354 S.W.3d 336 (Tex. 2010). Upon review, we find the district must withhold the date of birth we have marked under section 552.102(a) of the Government Code.

Section 552.137 of the Government Code excepts from disclosure “an e-mail address of a member of the public that is provided for the purpose of communicating electronically with a governmental body” unless the member of the public consents to its release or the e-mail

accordance with section 552.130(e). *See id.* § 552.130(d), (e). Section 552.136(c) authorizes a governmental body to redact the information described in section 552.136(b) without the necessity of seeking an attorney general decision. *See id.* § 552.136(b). If a governmental body redacts such information, it must notify the requestor in accordance with section 552.136(e). *See id.* § 552.136(d), (e). Section 552.147(b) of the Government Code allows a governmental body to withhold a living person’s social security number without the necessity of requesting a decision from the attorney general. *See id.* § 552.147(b).

address is of a type specifically excluded by subsection (c).⁴ See Gov't Code § 552.137(a)-(c). The e-mail address at issue is not excluded by subsection (c). Upon review, we find the district must withhold the e-mail address we marked under section 552.137 of the Government Code, unless its owner affirmatively consents to its public disclosure.

In summary, the district must withhold the submitted I-9 form under section 552.101 in conjunction with section 1324a of title 8 of the United States Code. The district must withhold the date of birth we marked under section 552.102(a) of the Government Code. The district must also withhold the information we marked under section 552.137, unless the owner affirmatively consents it is disclosure. The remaining information must be released.

This letter ruling is limited to the particular information at issue in this request and limited to the facts as presented to us; therefore, this ruling must not be relied upon as a previous determination regarding any other information or any other circumstances.

This ruling triggers important deadlines regarding the rights and responsibilities of the governmental body and of the requestor. For more information concerning those rights and responsibilities, please visit our website at http://www.texasattorneygeneral.gov/open/orl_ruling_info.shtml, or call the Office of the Attorney General's Open Government Hotline, toll free, at (877) 673-6839. Questions concerning the allowable charges for providing public information under the Act may be directed to the Office of the Attorney General, toll free, at (888) 672-6787.

Sincerely,



Melanie J. Villars
Assistant Attorney General
Open Records Division

MJV/som

Ref: ID# 568279

Enc. Submitted documents

c: Requestor
(w/o enclosures)

⁴The Office of the Attorney General will raise a mandatory exception on behalf of a governmental body, but ordinarily will not raise other exceptions. See Open Records Decision Nos. 481 (1987), 480 (1987), 470 (1987).